

### Remarks

After amendment, claims 55-69 and 71-89 are pending in the present application. Claims 54 and 70 have been cancelled and replaced with claims 88 and 89, which are new. Claims 88 and 89 have been drafted to address the Examiner's objection and to distinguish the art wherein R<sup>3</sup> is methyl in certain prior art compounds. Note that subject matter deleted from original claims 54 and 70 which is not anticipated by the art of record is cancelled *without prejudice* herein in order to advance prosecution in this application, seek expedited allowance and give Applicants a chance to file a subsequent application (divisional) directed to such subject matter. Support for the amendment to the claims can be found throughout the originally filed application and claims.

The Examiner has variously objected to or rejected the originally filed claims under 35 U.S.C. §112, first paragraph or §102. Applicants shall address each of these rejections in the sections which follow.

#### The Claim Objection

Original claim 56 was objected to as not having a period at the end of the claim. Amended claim 56 addresses the Examiner's concerns.

#### The 35 U.S.C. §112, First Paragraph Rejection

The Examiner has rejected previously filed claims 54-87 as failing to comply with the written description requirement under 35 U.S.C. §112, first paragraph for the reasons which are stated in the April 19, 2007 on pages 3-4. In particular, the Examiner contends that Applicants "carve out", which appears in claims 54 and 71, represented an impermissible introduction of new matter. Applicants respectfully traverse the Examiner's rejection, inasmuch as every compound which was claimed in previously pending claims 54 and 70 finds support in the specification. However, rather than protracting the arguments associated with this issue, Applicants have presented new claims 88 and 89 which have deleted the offending language from those claims. Support for the amendment to the claims can be found throughout the originally filed application and claims and *inter alia*, at page 6, line 14 (definition of R<sup>3</sup>), page 7, the third full paragraph, and original claims 1 and 22. Note that Applicants have cancelled claim

language from previously pending claims 54 and 70 *without prejudice* (to the extent that the subject matter cannot be found in the prior art), and reserve the right to prosecute to allowance that subject matter in later filed applications claiming priority from the present application (and earlier filed applications). Applicants respectfully submit that the instant claims are now in compliance with the requirements of 35 U.S.C. §112, first paragraph.

It is respectfully submitted that the newly submitted and amended claims fully address the Examiner's §112 rejection.

#### The §102(b) Rejections

The Examiner rejected previously pending claims 54-55 as being anticipated by Haraguchi, et al., *Nucleic Acids Research Suppl.*, pp. 133-134, 2002 ("Haraguchi"). In particular, Haraguchi discloses a didehydrothymidine analog having a methyl group at the 4' position of the sugar synthon. Inasmuch as Applicants have presented new claims 88 and 89 which do not claim the compounds which are claimed by Haraguchi, the rejection by the Examiner has now been rendered moot in the present application.

The Examiner has also rejected the previously pending claims 54-55, 64-69, 70-71 and 80-85 as being anticipated by the published Japanese application of Asahi Breweries, Ltd. (JP6-80688-A), for the reasons which are stated in the office action on page 4. In order to address this rejection, Applicants have amended claims 54 and 70 and replaced those claims with independent claims 88-89, which do not claim a nucleoside analog having a methyl group at the 4' position of the sugar synthon. Consequently, it is respectfully submitted that the newly presented claims and the presently pending claims are not anticipated and the Examiner's rejection has been rendered moot by the amendment to the claims presented herein.

It is respectfully submitted that the presently pending claims are now in compliance with the requirements of 35 U.S.C.

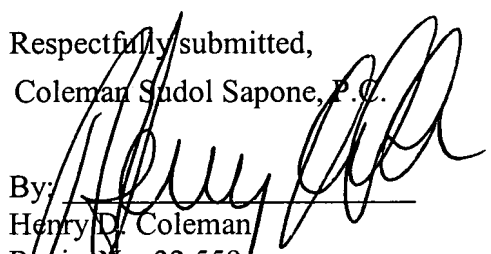
For the above reasons, Applicant respectfully asserts that the claims set forth in the amendment to the application of the present invention are now in compliance with 35 U.S.C. Applicants respectfully submit that the present application is now in condition for allowance and such action is earnestly solicited. Applicants have cancelled two independent claims and added

two independent claims. No fee is due for the presentation of this amendment. If any fee is due or any overpayment has been made, please charge/credit Deposit Account No. 04-0838.

Applicants resubmit herewith a copy of the information disclosure statement submitted with the previously filed amendment/response on July 16, 2007.

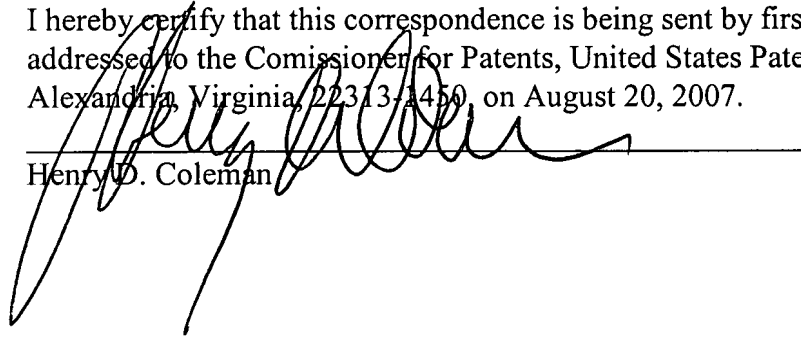
Dated: 8-20-07

Respectfully submitted,  
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being sent by first class mail in an envelope addressed to the Commissioner for Patents, United States Patent and Trademark Office, Alexandria, Virginia, 22313-1450, on August 20, 2007.

  
Henry D. Coleman